

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

UNITED STATES OF AMERICA,
ex rel. JANE DOE and JANE ROE
Plaintiffs,

v.

HENRY WAYNE MCINNIS
Defendants.

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CIVIL NO. 2:15-CV-208

Judge Nelva Gonzales Ramos

ORDER

After review and consideration of the United States Motion for Summary Judgment on its False Claims Act (“FCA”) 31 U.S.C. §§ 3729 et seq., damages, the Court makes the following findings and GRANTS the Motion in favor of the United States:

1. On January 18, 2023, the Court granted the United States motion for summary judgment on liability for the three FCA causes of action alleged in the United States Complaint in Partial Intervention. (ECF No. 43). Having granted summary judgment to the United States on the FCA causes of action in its Complaint in Partial Intervention, the Court finds that pursuant to 31 U.S.C. § 3729(a)(1) the United States is entitled to recover treble single damages and civil penalties for each violation of the FCA.

2. The Court takes judicial notice of United States District Judge Rolando Olvera’s order for \$120,000,000 restitution against McInnis’s convicted co-conspirator Mesquias. (TXSD 1:18-cr-00008, ECF No. 519). The Court takes judicial notice of the Fifth Circuit Court of Appeals ruling and opinion in the related criminal case of *United States v. Mesquias*, 29 F.4th 276, (5th Cir. 2022). The Court takes judicial notice of the Order for Default Judgment Against Mesquias in favor of the United States for treble FCA damages of \$29,627,410, and civil penalties of \$83,840,000, for a total of \$113,467,410. (ECF No. 39).

3. The Court finds that there is no genuine dispute that the United States suffered a single damage loss of at least \$9,875,803 from the FCA violations alleged in the United States Complaint in Intervention.

4. The Court finds that there is no genuine dispute that the United States single damage loss was comprised of 3,463 individual false and fraudulent claims, submitted under the Medicare provider numbers of Dr. Eduardo Carrillo and Dr. Jesus Alfredo Virlar Cardena during McInnis's participation in the health care fraud conspiracy alleged in the United States Complaint in Intervention.

5. The Court finds that the facts underlying the FCA violations in the United States Complaint in Intervention support a civil penalty close to the maximum permitted by 28 C.F.R. §85.5.

When there are no genuine issues of material fact, a movant is summary judgment as a matter of law. Therefore, it is the ORDER of the Court that the United States motion for summary judgment on FCA damages is GRANTED.

The Court hereby ORDERS defendant Henry Wayne McInnis to pay the United States treble single damages, a total of \$29,627,410, and civil penalties of \$83,840,000 for 3,463 FCA claim violations, a total of \$113,467,410, jointly and severally with co-defendant Rodney Ysa Mesquias.

Signed at Corpus Christi, Texas on _____, 2023.

NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE